



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/158843

PRELIMINARY RECITALS

Pursuant to a petition filed July 07, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 29, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's application for BadgerCare+ because of income reported to be in excess of BadgerCare+ gross income limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for health care benefits on or about June 3, 2014 and sought backdating for three months - to March 2014.
3. Petitioner's application for health care benefits was denied the agency concluded that Petitioner was over the income limit.
4. Petitioner was working at the time of application. His application indicates that he has a salary of \$320.00. The agency sought verification. An employer verification of earnings was submitted that

indicated that Petitioner earns \$12.00 per hour and works 37.5 hours per week and the employment began June 4, 2012. Paychecks were noted to be semi-monthly. It also indicated that Petitioner was a temporary employee. Handwritten notes, the writer of which is not in the record here, indicate Petitioner was an on and off season employee.

5. 100% of the Federal Poverty Level for one person is \$972.50.
6. At 37.5 hours per week at \$12.00 per hour the agency concluded that Petitioner had gross income of \$1800.00 per month and denied his application via notice dated June 25, 2014.
7. At hearing Petitioner submitted a paycheck stub dated June 30, 2014 for the period from June 16, through June 30, 2014 that indicated that he had gross income of \$768 for that pay period and his year to date gross was \$2328.00. He also submitted a July 15, 2014 paycheck stub that indicated that his gross pay for the period from July 1 through July 15, 2014 was \$1008.00. Gross yearly wages to this point were \$3336.00 but the frequency of his earnings (i.e., not the employer's pay schedule) was not provided. A new employer verification form was submitted in early to mid-July that indicates Petitioner was working 32 hours per week - gross monthly income would then be $32 \times \$12 = \1536 .
8. As of the date of the hearing the agency did not have Petitioner's earnings record for April and May 2014.
9. Petitioner's employment is at a major [REDACTED] and he works part time. The hours noted on the employer report were for only the summer of 2014. During the school year Petitioner works there only a few hours per month.
10. Petitioner had some medical expenses from a sprained ankle that occurred at some in the spring of 2014 but Petitioner could not be more specific at hearing.

DISCUSSION

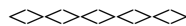
BadgerCare+ is Wisconsin's medical assistance program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. Childless adults became BadgerCare+ eligible as of April 1, 2014 if all other eligibility criteria were met. *BadgerCare+ Eligibility Handbook, (BEH), §2.1*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; notably the Affordable Care Act. 100% of the Federal Poverty Level for a 1 person household is \$972.50 per month. *BEH, §50.1*.

Also relevant here are the following provisions from the BEH:

The following items must be verified for BC+:

- ...
 5. Income...

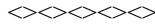
BEH, §9.9



16.6 Fluctuating Income

If the amount or frequency of regularly received income is known, average the income over the period between payments. If neither the amount nor the frequency is predictable, do not average; count income only for the month in which it is received.

...
BEH, §16.6.



25.8.1 Backdated Eligibility

All non-pregnant, non-disabled parents and caretakers may have their eligibility backdated up to the first of the month, three calendar months prior to the month of application for any of the months in which their family income was:

- At or below 133% FPL, for new applications submitted prior to February 1, 2014

OR

- At or below 100% FPL, for new applications submitted after February 1, 2014.

§25.8.1

...

BEH, §25.8.1.

Based on the record and program regulations recited above, I conclude that the agency correctly denied Petitioner's June 3, 2014 application. The gross income limit is \$972.50. The best available information at the time of the denial was the employer information that Petitioner was earning \$12 per hour and working 37.5 hours per week. This is in excess of \$972.50. I also note that potential backdating could only go back to April 1 not March 1.

Information submitted at the hearing for June 2014 was incomplete – it showed gross income of \$768 for only the last two weeks of June. What he earned in the first two weeks of June was not presented. No pay information for April or May was submitted before or after the hearing. Petitioner's earnings fluctuate and it is not even clear that he works enough hours during the school year to conclude that the frequency of his income is known. Given these factors it is possible that his potential BadgerCare+ eligibility is going to be based on actual monthly income rather than an average.

The agency did indicate it would reconsider Petitioner's eligibility to some degree after the hearing based on the information submitted at hearing and other information Petitioner promised to provide after the hearing. Any determinations made by the agency as to Petitioner's BadgerCare+ eligibility after the hearing may be separately appealed.

CONCLUSIONS OF LAW

That Petitioner's application was correctly denied because of income in excess of program eligibility limits.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of September, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 19, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability